



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Tom N. Cope  
County Attorney  
Cass County  
Linden, Texas

Opinion No. 0-7208

Re: Construction of Article 1939a  
as pertaining to World War II  
Veterans Educational Benefits

Dear Sir:

Your recent request for an opinion of this Department reads, in part, as follows:

"Does provision of law as stated in Article 1939a, Sections 1 and 2, Vernon's Annotated Statutes, (Civil), of Texas, and Acts of 49th Legislature (1945), Chapter 346, Section I, page 587, provide for certified copy of instruments of record in custody or on file in the office of County Clerk, District Clerk and other public officials of the State without cost when request therefor is made by eligible persons, extent to and including instruments and dockets required in securing provisions provided in Educational provisions of World War II Veterans Readjustment Law, known as "G. I. Bill of Rights"?"

Article 1939a, Vernon's Annotated Civil Statutes, as amended by the Acts 1945, 49th Legislature, page 587, chapter 346, section 1, reads as follows:

"Article 1. Any person, his guardian, or his dependents or heirs at law who is eligible to make a claim against the Government of the United States of America as a result of service in the Armed Forces of the United States of America, or

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the services auxiliary thereto, including the Maritime Service and the Merchant Marine, shall upon the request therefor by such person, his guardian, or his dependents, or heirs at law, be furnished without cost a certified and authenticated copy or copies of any instrument, public record or document necessary to prove or establish such claim, which is in the custody or on file in the office of County Clerks, District Clerks and other public officials of this State, by such officials. Provided, the issuance of such certified or authenticated copy or copies by such officials shall not be considered in determining the maximum fee of such offices.

"Article 2. The rights conferred by this Act shall extend to any person, his guardian or his dependents, or heirs-at-law who are eligible by reason of service heretofore or hereafter rendered in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, when such person, his guardian, or his dependents, or heirs-at-law are eligible to make claim against the Government of the United States of America as a result of such service." (Emphasis added)

It will be noted that the clear and unequivocal intention manifested by the Legislature in the above Sections of Article 1939a is to require the County Clerks and District Clerks to furnish ex-servicemen who are eligible to make a claim against the Government of the United States of America as a result of service in the Armed Forces of the United States of America, without cost, a certificated and authenticated copy or copies of any instrument necessary to prove such claim.

Bearing this premise in mind, it is evident that the answer to the instant request hinges upon the question of whether or not an application for the educational benefits inuring to veterans under the "Servicemen's Readjustment Act of 1944" constitute "a claim against the Government of the United States of America," as said language appears in Article 1939a, Vernon's Annotated Civil Statutes, supra.

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For a consideration of this proposition we invite to your attention Sections 36.213, 36.217, and 36.223 of Title 38 "Code of Federal Regulations". Said sections read, in part, respectively as follows:

"Section 36.213. The veteran may file his application with the Veterans Administration or through the approved educational or training institution which he has selected, in which event the institution should promptly forward his application to the regional office or facility having regional office activities in the territory in which the institution is located. Applications for this benefit shall be made through the execution of Veterans Administration Form 1950, Veterans' Application for a Course of Education or Training or Refresher or Retraining Course under Part VIII (§ 35.018, ante), properly filled in and subscribed to and sworn before a person authorized to administer oaths. Any communication from or action by a claimant or his duly authorized representative which clearly indicates an intent to apply for benefits under this title may be considered an informal application thereunder if promptly followed by formal application, Form 1950. \* \* \*

"(a) With this Form 1950 there should be submitted a certified copy (not an abstract) or a certified photostatic copy of discharge or release from active duty, and,

\* \* \*

"Section 36.217. When an application for education or training is received and the veteran had less than ninety (90) days service within the purview of Veterans Regulation No. 1 (a), Part VIII (§ 35.018, ante), but was discharged for disability, the vocational rehabilitation and education division will refer the claim to the adjudication division, field office, or the claims division, veterans claims service, central office, for a formal rating to determine whether such discharge was by reason of an actual service-incurred disease or injury."

"Section 36.223. \* \* \*

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"(a) A claim on Form 1950 having been filed and eligibility having been determined, he presents a certificate of eligibility to an institution showing his entitlement to a course of education or training, or,

"(b) No claim on Form 1950 having been filed with the Veterans Administration, and the veteran enters into an institution under conditions satisfactory to the institution, in which case it will be necessary that Form 1950 be executed and forwarded to the appropriate office of the Veterans Administration in order that eligibility may be determined.

\* \* \*

The above quoted sections clearly recognize and tersely refer to veterans' educational benefits as a claim against the Government, the assertion of which is presented on a prescribed form (No. 1950) and accompanied by a certified copy of the veteran's discharge or release. Thus it is the opinion of this Department that Veterans Educational Benefits constitute a claim against the Federal Government as contemplated by Article 1939a, V. A. C. S., and therefore, veterans of World War II are entitled to a certified and authenticated copy or copies of any instrument necessary in securing said Educational Benefits as provided for in the "Servicemen's Readjustment Act of 1944."

Trusting the above satisfactorily answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

*[Handwritten signature]*  
APR 27 1946  
By  
RECEIVED  
GENERAL

*[Handwritten signature: Bob D. Maddox]*  
Bob D. Maddox  
Assistant

BDM:jt

